REMARKS

Upon entry of the above amendments, claims 1, 3-8, 10-34, 36-39, 41-44, 51-53, 55-63, and 69 will be pending. In view of the above amendments and the following remarks, Applicants respectfully request reconsideration of the outstanding Office Action and allowance of the present Application.

The outstanding Office Action rejects claims 1, 3-8, 10-34, 36-39, 41-44, 51-53, and 55-63 under 35 U.S.C. § 102(e). as being anticipated by U.S. patent No. 6,608,638 to Kodosky et al.

Applicants note that each of the independent claims of the independent claims in this Application, including independent claims 1, 19, 39, 51, and newly-submitted claim 69 (which corresponds to original claim 39), recites limitations in combinations which are neither taught or suggested by (nor inherent in view of) the § 102 anticipation reference Kodosky et al. as applied in this Office Action.

Applicants notes that the format of the Office Action is telling. Each of the limitations of only independent claim 1 is recited at the beginning of the rejection in a portion of the rejection bridging pages 2 and 3 thereof. Meanwhile, a jumbo patent Kodosky et al. is cited, and a number of different sections of that patent are referred to. No explanation is provided as to how the various portions of the Kodosky disclosure correspond, or don't correspond, to the claim limitations.

Given the stage of the present Application, and that this Office Action is well beyond a first Office Action on the merits (at which point some Examiners are notorious for making rejections without precise explanations as to how the claims read on the reference(s)), Applicants implore the Examiner to specifically point out where each and every limitation of the independent claims is specifically taught by the Kodosky et al. disclosure. If an inherency argument is made based upon the Kodosky et al. disclosure, Applicants further ask that the Examiner explain the basis of the inherency.

Given the effort by the U.S. Patent & Trademark Office to make the examination and prosecution process more efficient, and thereby reduce the number of Amendments and Office Actions as well as Continuations, Applicants believe it will be only appropriate for the Examiner to issue a new Office Action providing a more explanation and complete bases for the rejection,

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in order for there to be considered a prima face a case of unpatentability of the presently pending claims.

As specified in MPEP § 2131, under the heading "TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM", it is explained that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. As further explained in that same paragraph of the MPEP, the identical invention must be shown in as complete detail as is contained in the claim.

As set forth in 37 C.F.R. § 1.104(c) (2), "When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified."

Applicants note that independent claim 1 recites, among other elements, sending, via a communications network, image data, an indication of the vision tool that was selected, and at least one vision tool parameter corresponding to the vision tool, from a recited first computer to a remotely located second computer that includes the vision tool.

Applicants' representative has reviewed the rejection, and is unable to even speculate as to which portions of the Kodosky reference the Examiner is relying upon to meet these elements of claim 1. In this regard, Applicants note that column 3, line 7 is identified, with the Examiner stating "user may specific one or more images on which to run the algorithm". Applicants believe that it is reasonable to conclude that this portion of the Kodosky et al. reference does not meet the above-mentioned example limitation of independent claim 1.

The Examiner further refers to column 3, lines 20-32 and states "user may input parameters". Applicants also believe that this is not relevant to the described example of limitations of independent claim 1.

The Examiner further refers to column 8, lines 8-25 and Fig. 3 of the Kodosky et al. patent, and states "user creates image processing system, user to load and display an image, image processing functions are performed on an image, user to select and apply functions". Applicants note that none of these statements made by the Examiner, nor the cited sections of the Kodosky et al. patent, describe or suggest, expressly or inherently, the recited above-mentioned example limitations of independent claim 1.

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The Examiner refers to column 10, lines 64, and states "the images may be obtained from any of various sources." Applicants submit that this statement in no way addresses the above example limitations of independent claim 1.

The Examiner further refers to column 12, line 50 and Fig. 5, and refers to "host computer 100, connects to one or more instruments, CPU, display screen, memory". This statement and the cited sections of the Kodosky et al patent do not teach the above-mentioned example limitations of independent claim 1.

The Examiner further refers to column 15 and lines 1-31. The Examiner states that "the memory medium may be comprised in the computer 102...or may be located on a second computer which is coupled to the computer 102 through a network, LAN, WAN, Internet...to provide the program instructions through the network..."

This portion of the Kodosky et al patent also fails to have any relevance to the above-mentioned example limitations of independent claim 1.

It should be noted that the Kodosky et al patent is directed to a system and method for configuring a programmable hardware instrument to perform measurement functions utilizing estimation of the hardware implementation and management of hardware resources. As mentioned at the Field of the Invention of this patent at column 1, lines 11-18, the invention relates to graphical programming, and particular to a system and method for converting a graphical program into a hardware implementation. The disclosed invention further relates to a system and method for configuring an instrument to perform measurement functions, wherein the instrument includes a programmable hardware element.

Applicants further point out that this patent is a jumbo patent.

The memory medium being described at column 15, lines 1-31, even if combined or modified in various ways, still does not teach each of the example limitations mentioned above with respect to independent claim 1.

Examiner further refers to column 15, lines 23-31 and states "the instruments or devices are controlled by graphical software programs, optionally a portion of which execute on the CPU of the computer 102, and at least a portion of which are uploaded to the programmable hardware element for hardware execution...performed data acquisition, analysis and/or presentation."

Applicants point out that the above-mentioned example limitations of independent claim 1 are specific, and require sending, via a communications network, image data, an indication of

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the vision tool that was selected, and at least one vision tool parameter corresponding to the vision tool, from a recited first computer to a remotely located second computer that includes the vision tool. The independent claim 1 further recites validating the image data, the division tool, and at least one division tool parameter, remotely located at the remotely located second computer.

Accordingly, the limitations recited in the claims, including the example limitations of independent claim 1, recite more than the idea of executing a graphical software program or any program in some type of apportioned way between different computers, which the described portions of the Kodosky et al. patent relating to column 15, lines 23-31, seem to be generally referring to.

The Examiner refers to column 16, lines 35-38, and mentions that "the computer 102 may also include a network interface card for coupling to a network..." Applicants still do not see the relevance of this portion of the Kodosky et al. patent to the above-noted example limitations of independent claim 1. The existence of a network interface card is of no import nor of any relevance, absent a element by element explanation of why each element in the claims of the present application are included in a corresponding system, method, or device as described by the Kodosky et al. patent.

The Examiner further refers to column 13, line 55, and states that "the instruments are coupled to receive..." The fact that instruments are coupled to receive does not in any way address the limitations of the claims in the present Application, including, for example, the above-mentioned example limitations of independent claim 1.

The Examiner refers to column 16, lines 66, and refers to data acquisition DAQ logic 204. Applicants do not understand the relevance of this reference, and assert that it does not address any of the inadequacies of the rejection and does not make the Kodosky et al. patent any more relevant to the claims, including, for example, the above-mentioned example limitations of independent claim 1.

The Examiner refers to column 17, lines 19-21, and states "thus a graphical program can be created on the computer 102, or on another computer in network systems." The statements above made with respect to the Examiners reference to column 15, lines 23-31, also apply to this reference.

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The Examiner refers to column 18, lines 1-5, and explains that "any supervisory control portion of the graphical program which is necessary or desired to execute in machine language or on a programmable CPU may be executed by the host CPU in the computer system 102 and is not executed locally by a CPU on the interface card 114."

Applicants note that this portion of the Kodosky et al. patent as characterized by the Examiner still does not address each of the limitations mentioned above in the example limitations of independent claim 1.

The Examiner refers to column 21, lines 13-27 and Fig. 9, and explains that a user may select various function icons and assembles a user interface. Whether or not a user can select icons in an assemble user interface has no relevance to the example limitations of independent claim 1 as noted above.

The Examiner further refers to column 10, lines 43-47, and states "a computer system connection over a network, such as the Internet."

Again, the Kodosky et al. patent still fails to teach or suggest the combination of limitations as recited in each of the independent claims, including, for example, the above-mentioned limitations of independent claim 1.

None of the references of record, considered alone or in any proper combination, teaches or suggest all of the limitations recited in each of the independent claims in the present Application.

In view of the lack of correspondence between the references of record, including those in the outstanding Office Action, and the claims currently pending, Applicants are submitting claim 69 herewith, which corresponds to the original claim 39. Applicants also believe that the combination of limitations recited in this claim is also both novel and unobvious in view of the references of record, whether such references are considered alone or in any proper combination.

Accordingly, Applicants believe that all of the claims in the present Application that are currently pending are patentable. Reconsideration of the outstanding Office Action and the allowance of the present Application are respectfully request. A Notice to that affect is earnestly solicited.

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Should the Examiner have any questions concerning this Application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,

Dated: _____10/18/07_____

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